

# **EXHIBIT “B”**



COMMONWEALTH OF PENNSYLVANIA  
OFFICE OF ATTORNEY GENERAL

LINDA L. KELLY  
ATTORNEY GENERAL

February 6, 2012

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Harrisburg, PA 17120  
(717) 783-1111

Daniel Sherry, Esq.  
Eisenberg Rothweiler Winkler  
Eisenberg & Jeck, PC  
1634 Spruce Street  
Philadelphia, PA 19103

**Re: Right to Know Request**

Dear Mr. Sherry:

This letter acknowledges receipt by the Office of Attorney General of your written request for records under the Pennsylvania Right to Know Law (65 P.S. §67.101 et seq.) ("RTKL"). Your request was received by our Right to Know Officer on February 1, 2012. For purposes of this letter, the "identified records" are those in your letter, as modified by any subsequent communications.

You requested all file materials pertaining to the investigation of the death of Robert Neill, Jr., which was declared completed by Nils Frederiksen on November 15, 2011.

Please be advised that upon completion of the investigation conducted by this agency, the above matter was closed and subsequently returned to the Lancaster County District Attorney's office. Therefore, responsive records are not within this agency's possession, custody or control. 65 P.S. §67.705.

Nevertheless, and without waiving the applicability of section 705 of the RTKL, to the extent this agency would still have possession of any materials from the above-referenced investigative file, investigative documents are protected from disclosure by the Criminal History Record Information Act (CHRIA), 18 Pa.C.S.A. §§9101-9183 and are subject to exemption under the RTKL, 65 P.S. §67.101 et seq.

CHRIA defines "investigative information" as "[i]nformation assembled as a result of the performance of any inquiry, formal or informal, into a criminal incident or an allegation of criminal wrongdoing and may include modus operandi information." 18 Pa.C.S.A. §9102. Under CHRIA, "[i]nvestigative...information shall not be disseminated to any department, agency or individual unless the department, agency or individual requesting the information is a criminal justice agency which requests the information in connection with its duties..." 18 Pa.C.S.A. §9106(c)(4).

Also precluded from disclosure is "[a] record of an agency relating to or resulting in a criminal investigation, including . . . [i]nvestigative materials, notes, correspondence, videos and

Daniel Sherry, Esq.  
Right to Know Request  
Page 2

February 6, 2012

reports . . . [a] record that includes information made confidential by law or court order or . . . [a] record that, if disclosed, would . . . [r]eveal the institution, progress or result of a criminal investigation, except the filing of criminal charges . . ." 65 P.S. §67.708(b)(16)(ii), (iv), and (vi)(A).

Therefore, we must deny your request for the reasons stated above.

We would suggest that you contact the Lancaster County District Attorney's Office directly for any assistance they may be able to provide to you concerning this matter. Should you wish to file an official Right to Know Law request for records with the District Attorney's Office, you may address that request as follows:

District Attorney Open Records Officer  
Lancaster County Office of the District Attorney  
50 North Duke Street, PO Box 83480  
Lancaster, PA 17608

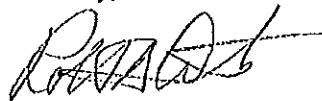
**RIGHT TO APPEAL**

IN ORDER TO CHALLENGE THIS RESPONSE, YOU MUST FILE YOUR APPEAL WITH THE RIGHT TO KNOW APPEALS OFFICER, OFFICE OF ATTORNEY GENERAL WITHIN FIFTEEN (15) BUSINESS DAYS OF THE MAILING DATE OF THIS LETTER. YOUR APPEAL SHALL INCLUDE A COPY OF YOUR REQUEST, A COPY OF THIS AGENCY'S RESPONSE, STATE THE GROUNDS UPON WHICH YOU CLAIM THAT YOUR REQUEST SHOULD NOT HAVE BEEN DENIED AND SHALL ADDRESS ANY REASON STATED BY THIS AGENCY FOR DENYING THE REQUEST. YOUR APPEAL MUST BE ADDRESSED TO THE FOLLOWING:

RIGHT TO KNOW APPEALS OFFICER  
OFFICE OF ATTORNEY GENERAL  
16<sup>TH</sup> FLOOR STRAWBERRY SQUARE  
HARRISBURG, PA 17120

By providing the above response to you, the Office of Attorney General has satisfied its obligation to respond under the statutory requirements of the RTKL.

Sincerely,



Robert A. Mullen  
Chief Deputy Attorney General  
Right to Know Officer

RAM:mlm  
SR-36593-912V